



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Richard B. Lazarus
Barnes & Thornburg LLP
1717 Pennsylvania Ave. N.W.
Suite 500
Washington, DC 20006

MAILED

JAN 23 2013

OFFICE OF PETITIONS

In re Application of :
Burdisso et al. :
Application No. 09/159,634 : REQUEST FOR MORE INFORMATION
Patent No. 6,112,514 :
Filed: September 24, 1998 :
Issue Date: September 5, 2000 :
Attorney Docket Number: 97-058 :
Title: FAN NOISE REDUCTION FROM :
TURBOFAN ENGINES USING ADAPTIVE :
HERSCHEL-QUINCKE TUBES :

This letter is being mailed in response to the renewed petition pursuant to 37 C.F.R. § 1.378(e), to reinstate the above-identified patent, received on December 21, 2012.

BACKGROUND

The patent issued on September 5, 2000. The grace period for paying the 7½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on September 5, 2008, with no payment received. Accordingly, the patent expired on September 5, 2008 at midnight.

An original petition pursuant to 37 C.F.R. § 1.378(b) was filed on January 23, 2012, and was dismissed via the mailing of a decision on April 30, 2012.

On October 2, 2012, a petition pursuant to 37 C.F.R. § 1.181 was filed, requesting that the time period for responding to the aforementioned decision on the original petition pursuant to 37 C.F.R. § 1.378(b) be restarted. The petition pursuant to 37

C.F.R. § 1.181 was granted via the mailing of a decision on October 23, 2012.

A renewed petition pursuant to 37 C.F.R. § 1.378(e) was received on December 21, 2012.

ADDITIONAL INQUIRY

With the original petition pursuant to 37 C.F.R. § 1.378(b), Petitioner included a statement of facts from Mr. Coburn, which asserts that VTIP uses "Inteum C/S® technology transfer software for intellectual property," and this software is used "for tracking patent due dates including maintenance fee due dates."¹ The statement from Mr. Coburn explains that on an unspecified date, Ms. Lucas (the IP Manager/Patent Paralegal of VTIP) wrote "Paid 8/9/06" in the "7.5 large entity" field of the Inteum C/S® tracking report, and this entry was erroneously made as a result of the fact that the 2006 annuity fee for the corresponding European Patent Application was made on this date. Mr. Coburn adds "it is my opinion that I did not order payment of the second maintenance fee for the '514 patent" and "[i]f the 'Paid 8/9/06' indicator had not been in the record I believe I would have ordered payment of the US maintenance fees and the '514 patent would not have expired."² In other words, the annuity for the corresponding European Patent Application was paid on August 9, 2006, Ms. Lucas erroneously placed an entry into the Inteum C/S® tracking report indicating that the maintenance fee for this U.S. Patent had been paid on this date,³ and Mr. Coburn is of the belief that this erroneous entry resulted in the failure to submit the 7½-year maintenance fee which resulted in the expiration of this patent.

However, it is noted that the statement of Ms. Lucas which was included with the original petition pursuant to 37 C.F.R. § 1.378(b) does not expressly state that she committed an error which led to the expiration of this patent. To the contrary, Ms. Lucas indicates "[d]uring my employment at VTIP I made no errors that resulted in a lapsed US patent for failure to pay a

¹ Coburn declaration of facts submitted with the original petition pursuant to 37 C.F.R. § 1.378(b), paragraph 4.

² Id. at 13.

³ Id. at 12. See also Lucas declaration of facts submitted with the original petition pursuant to 37 C.F.R. § 1.378(b), paragraph 8 and the concurrently submitted Exhibits A and B.

maintenance fee."⁴ As such, despite the fact that Ms. Lucas concedes that she made the erroneous entry of "Paid 8/9/06,"⁵ her statement of facts appears to contradict the assertion that it was this entry which resulted in the failure to submit the 7½-year maintenance fee which resulted in the expiration of this patent.

In responding to this inquiry, this contradiction must be addressed, and statements from Mr. Coburn and Ms. Lucas should be included therewith. Petitioner should note that any statement pertaining to this matter should be made by one having firsthand knowledge of the event. Statements based on hearsay are not normally accepted.

CONCLUSION

Any response to this inquiry must be filed within **ONE MONTH** of the mailing date of this communication. **This time period is not extendable.** After the decision on the petition for reconsideration and the response to this inquiry, no further reconsideration or review of the matter will be undertaken by the Commissioner.

The response to this inquiry should be entitled "Response to Inquiry," and should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail,⁶ hand-delivery,⁷ or facsimile.⁸ Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.⁹

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

4 Lucas declaration of facts submitted with the original petition pursuant to 37 C.F.R. § 1.378(b), paragraph 3.

5 Id. at 8.

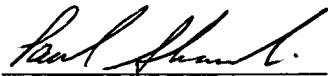
6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

7 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

8 (571) 273-8300: please note this is a central facsimile number.

9 <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>

Telephone inquiries regarding *this request for more information* should be directed to the undersigned at (571) 272-3225.¹⁰



Paul Shanowski
Senior Attorney
Office of Petitions

¹⁰ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).